IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

MACA.No. 614 of 2007(A)

OPMV.1553/2002 of MOTOR ACCIDENT CLAIMS TRIBUNAL, KOZHIKODE

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APPELLANT/PETITIONER IN OP(MV)

HANEEFA T.K., AGED 27 YEARS,
S/O ABOOBACKER, RESIDING AT KARATTUPARAMBATH
HOUSE, P.O.PAINGOTTUPURAM, KUNNAMANGALAM(VIA),
KOZHIKODE.

BY ADV. SRI.AVM.SALAHUDIN

RESPONDENTS: RESPONDENTS IN OP(MV)

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1. M.ABDUL AZEEZ, S/O MUHAMMED,
RESIDING AT MANAKKATHODI HOUSE,
P.O.ANAYUR, PATTAMBI, PALAKKAD.

2. THE ORIENTAL INSURANCE COMPANY LTD.,
VASEELA COMPLEX, NILAMBUR ROAD,
MANJERI, MALAPPURAM.

BY ADV. SRI.P.V.JYOTHI PRASAD
SC FOR ORIENTAL INS. COMPANY

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR ADMISSION ON 13/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

M.A.C.A.No. 614 OF 2007

Dated this the 13th June, 2007.

J U D G M E N T

Heard. Admitted. Advocate Sri.Jyothi Prasad appears for the second respondent. Notice to first respondent dispensed with. The appeal itself is heard and disposed of as follows.

2. Appellant met with a road traffic accident on 23.8.1988, at about 3 p.m. He sustained injuries. He filed a petition claiming compensation. The first respondent, owner and driver of the lorry, did not contest the matter. The second respondent, Insurance Company, alone contested the matter. Negligence alleged and the quantum of compensation are disputed. The Tribunal found that the accident occurred due to the negligence of the driver of the lorry, and it awarded a compensation of Rs.4000/=. Challenging that award, this appeal is filed.

3. The only question now arises for consideration is whether the appellant is entitled to get any additional compensation.

4. Appellant sustained injuries including abrasion 1 x 1 cm. on anterior aspect of shoulder, abrasion 1 x 1 cm. in front of his knee, and tiny abrasion on tender of calcanium, and underwent treatment. The Tribunal awarded an amount of Rs.2000/= only for pain and sufferings. According to the appellant, the Tribunal ought to have awarded Rs.5000/= for pain and sufferings. I am also of the opinion that Rs.5000/= ought to have been awarded on that count, and hence I award Rs.3000/= more on that count. I do not find any reason to modify the amount awarded on other counts.

In the result, the appeal is allowed in part. An amount of Rs.3000/= as additional compensation is passed in favour of the appellant, allowing him to recover the amount from the second respondent, Insurance Company, with 6% interest from the date of petition, till the date of realisation. The 2nd respondent is directed to deposit the above amount in favour of the appellant.

K.PADMANABHAN NAIR,
JUDGE

nj.